

## **REMARKS**

Claims 1 and 8–14 are pending in the application. In the Office action dated December 23, 2008, claims 10 and 14–20. In response to the Office action, Applicant has amended the specification and amended claims 1, 10.

Applicant respectfully requests that the application be reconsidered under 37 C.F.R. § 1.111.

### ***Objections to the Drawings***

Applicant's new drawings sheets submitted August 6, 2008 were not entered in the application. The originally filed drawings remain objected to under 37 C.F.R. § 1.83(a) as failing to show every feature of the invention specified in the claims. Specifically, the Examiner asserts that an example where a movable casing "completely surrounds" the stem, and where the locking device "is a bracket to the module" are not depicted in the drawings.

Without acquiescing in the objection, Applicant has amended claim 1 to recite "a movable casing which *substantially* surrounds the stem;" amended claim 10 to recite "The locking device according to claim 1, wherein the movable casing *is open at one side of the stem*"; and amended claim 14 to recite "The locking device according to claim 1, wherein the *module is fastened to the* locking device". These amendments are supported by, and are consistent with the locking device depicted in Figs. 1–3.

In view of the amendments to the claims, Applicant suggests that the drawings as originally filed are fully in compliance with 37 C.F.R. § 1.83(a). In view of the amendments to the claims, Applicant respectfully requests the withdrawal of the objection to the drawings.

### ***Objections to the Specification***

The specification is objected to as being inconsistent with the originally filed drawings, in view of the amendments to the specification of August 6, 2008. Responsive to the objection, Applicant has amended the specification to remove the amendments made to the specification in the response dated August 6, 2008.

### ***Rejections under 35 U.S.C. § 112***

Applicant appreciates the indication that the rejections of claims 10, 14, 18, and 15–20 under 35 U.S.C. § 112, first paragraph, have been overcome.

### ***Rejections under 35 U.S.C. § 103***

Claims 1 and 8–14 are rejected under 35 USC § 103(a) as being unpatentable over McDaniel (U.S. Patent no. 872739) in view of Stoll (U.S. Patent no. 1,726,372)

The Examiner asserts that it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the disclosure of McDaniel in view of the teaching of Stoll by substituting a spring around the pivot in place of the rearwardly mounted spring.

Applicant respectfully disagrees, and suggests that neither the Stoll nor the McDaniel reference is directed to either wheeled trolleys or chairs intended for children. The Examiner asserts that the flexible seat 12 of McDaniel is "capable of use by a child and is therefore a children's seat." Applicant suggests that this is an example of hindsight reconstruction, and reading elements of the claimed invention into the prior art. There is no mention or suggestion in the McDaniel reference that the portable stool of McDaniel is a child's seat. On the contrary, the explicit teaching of the reference is that the stool of McDaniel "can be carried on the person of the party desiring to use the same" (col. 1, lines 9–13 of McDaniel). Applicant suggests that children typically do not carry their own chairs about, and that the portable stool of McDaniel should not be considered a chair for children.

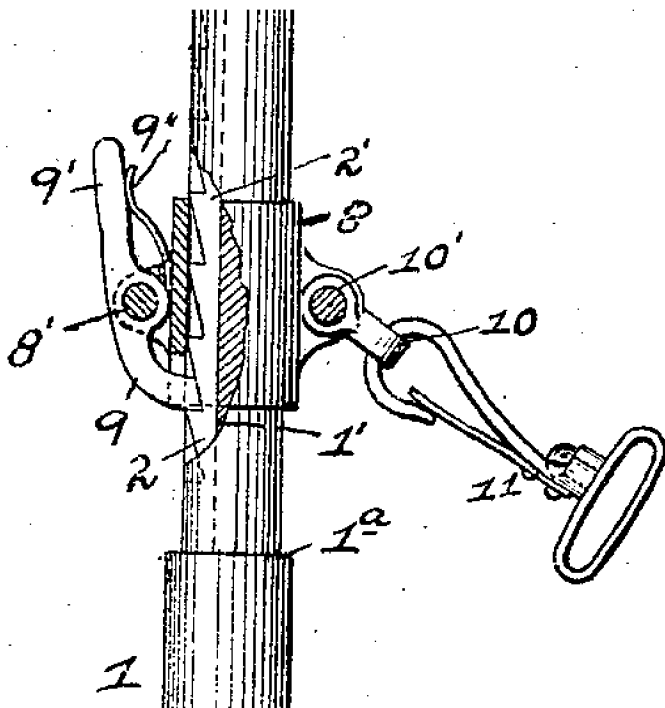
Similarly, the adjustable chair of Stoll is neither wheeled, nor a trolley, nor does it constitute a chair for children. Although Applicant suggests that the teaching of McDaniel and Stoll are already distinguished over the subject matter of the instant application, claim 1 has been further amended to more particularly define a locking device for a wheeled trolley or chair for children.

Additionally, neither the Stoll nor the McDaniel reference discloses a trolley or chair having but a single stem to which the module of interest is locked. Applicant has further

amended claim 1 to clarify that the claimed locking device interacts with a module and the single supporting stem of the trolley or chair. Applicant suggests this more particularly defines the relationship between the module, the stem, and the claimed locking device, and further distinguishes the claimed locking device from the disclosures of the cited references.

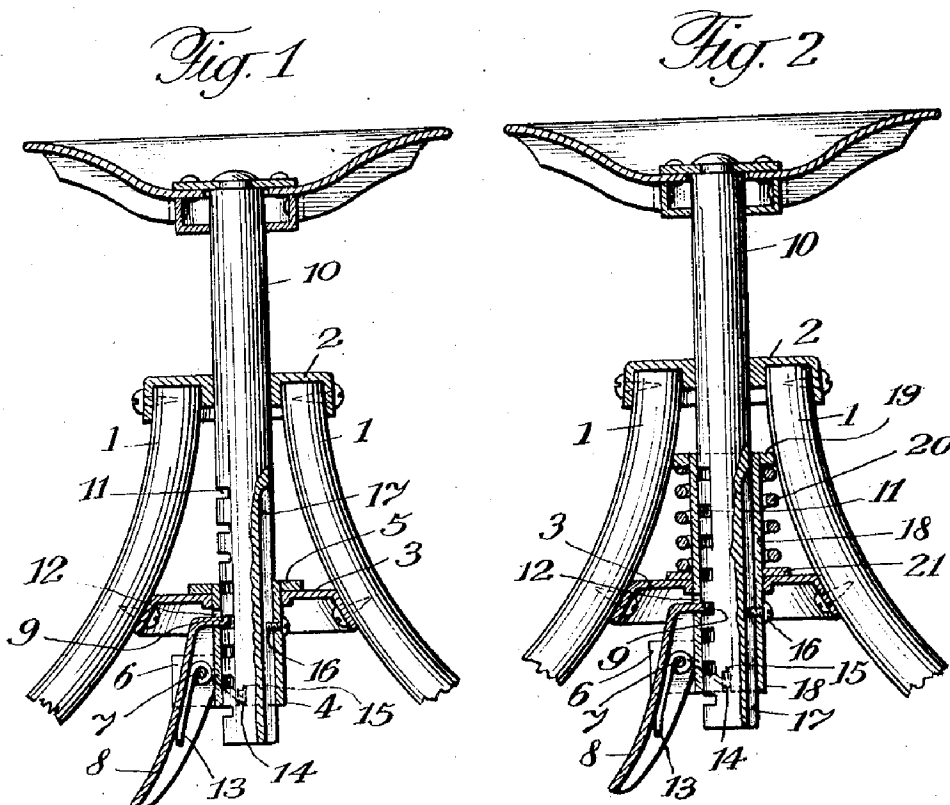
Furthermore, Applicant notes that claim 1 is explicit in reciting a locking device having "a handle rotating eccentrically in order to provide tension and friction against the stem; a friction element arranged between the handle and the stem; a spring-arranged between the handle and the friction element; wherein the stem is equipped with a friction pattern; and the friction element has a pattern corresponding to the friction pattern on the stem." Neither McDaniel nor Stoll disclose a locking device that includes a "friction element" and a handle that provides "friction against the stem".

As shown below, the McDaniel stool utilizes a spring-loaded pawl 9 and a corresponding inset "rack, gear or ratchet face" 2 to adjust the height of seat 12 on post 1.



Applicant respectfully disagrees with the Examiner's characterization that this pawl-and-ratchet mechanism is a "friction element", and in particular that the ratchet face is a "friction pattern", as recited in the rejected claims. The claimed locking device utilizes a handle rotating eccentrically to provide tension and friction against the friction pattern on the stem. The McDaniel device merely keeps the nose of pawl 9 from being disengaged from the ratchet tooth that it is resting upon. The handle of McDaniel does not affect friction of any kind between any parts of the McDaniel device. Applicant suggests that the McDaniel reference fails to disclose each and every element of the locking device of claim 1.

The Stoll adjustable chair very similarly utilizes a spring-loaded lever 8 having a projecting nose 9 that interacts with notches 11 in the stem 10 of the seat, as shown in Figs. 1 and 2 of Stoll below.



As was the case with the McDaniel reference, the Stoll device does not incorporate a friction element, and does not incorporate a handle which when rotated applies friction to a friction element. The mere retention of a pin in a corresponding notch is not the application of friction, and Applicant therefore suggests that Stoll similarly does not disclose each and every element of the locking device according to present claim 1.

Applicant also suggests that neither McDaniel nor Stoll provide any suggestion or motivation to replace the positive locking levers of the disclosed seats for a locking device that applies friction to a friction element. Neither McDaniel nor Stoll disclose any use of frictional locking, frictional elements, or frictional patterns, and so must necessarily fail to suggest the modification of either device to incorporate such a frictional lock.

Applicant further suggests that neither McDaniel nor Stoll disclose or suggest the substantial advantages that would be possessed by a frictional locking device as claimed in claim 1. As described in the specification, the claimed locking device includes “a handle 6 rotating eccentrically” that is “used to tighten the friction element 5 against the stem 2” (see page 3, lines 14–15 of the specification). In other words, the eccentric handle increases the pressure applied to the friction element as it is turned towards the locked position, by virtue of the curved part of the handle being in contact with the spring.

Because of the nature of the claimed locking device, the resulting increased load on the friction element locks the device into place when turning the handle towards the locking position, but also increases the load on the handle, which in turn increases the friction on the rotation of the handle from its locked position. That is to say, the handle of the claimed device exhibits maximum friction and resistance against the turning of handle 5 when the handle is in the locked position. In the case of both McDaniel and Stoll, the spring loads of the springs are at a minimum when in the locked position, as in each case the force applied by the springs on the handles is greatest as the handles are turned to their open position.

The claimed locking device therefore includes a handle that may be opened, and the height of the corresponding module adjusted, without continuously applying pressure or otherwise constantly operating the handle during height adjustment. The handles of McDaniel and Stoll must be continuously driven against their respective springs throughout any height adjustment to their devices.

The claimed locking device also locks the movement of the module to both downward and upward movement when engaged, whereas McDaniel locks to prevent downward movement, but provides only a certain resistance to upward movement depending on the spring load, as ratchet 2 is only configured to prevent downward movement (see page 2, lines 15–26 of McDaniel). It should further be noted that the locking device of claim 1 permits the continuous adjustment of height along the stem, whereas both McDaniel and Stoll only exhibit preset incremental adjustments, specifically where a ratchet step or notch is placed.

Applicant respectfully suggests that the Examiner has failed to establish the *prima facie* obviousness of claims 1 and 8–14, for at least the following reasons. The cited references fail to disclose each and every element of the rejected claims; the cited references fail to provide any suggestion or motivation to modify the disclosed invention as suggested by the Examiner; and even in combination, the cited references would still fail to provide the advantageous features of the claimed locking device.

Applicant concurrently submits a Petition for Revival and pays the associated \$1620 fee (fee code 2453) via the EFS-WEB fee payment system and our deposit account number 11-1540. Applicant believes no other fees are now due. Please charge any additional fees required, or credit any overpayments, to our deposit account number 11-1540.

In view of the above remarks and amendments, Applicant respectfully request the withdrawal of the rejection of claims 1 and 8–14 under 35 U.S.C. § 103(a).

Applicant believes that this application is now in condition for allowance. Accordingly, Applicant respectfully request that the Examiner issue a Notice of Allowability covering the pending claims. If the Examiner has any questions, or if a telephone interview would in any way advance prosecution of the application, please contact the undersigned agent of record.

**CERTIFICATE OF  
ELECTRONIC SUBMISSION**

I hereby certify that this correspondence is being electronically transmitted to the U.S. Patent and Trademark Service via the USPTO EFS-Web System on 07 July 2009

/ Stephen R. Pendleton /  
Stephen R. PENDLETON

Respectfully submitted,  
KOLISCH HARTWELL, P.C.

/ Anton E. Skaugset /  
Anton E. SKAUGSET  
Reg. No. 38,617; Customer No. 23581  
Agent for Applicant/Assignee  
520 SW Yamhill Street, Suite 200  
Portland, Oregon 97204  
TEL: 503-224-6655; FAX: 503-295-6679